



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/068,070

02/06/2002

Russell John Pytkki

A202 1460

7407

26158

7590

12/01/2006

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA, GA 30357-0037

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/068,070

Applicant(s)

PYLKKI ET AL.

Examiner

Yvonne M. Horton

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/35242 in view of "Switchable Privacy Glass". WO 00/35242 discloses the use of a window unit (21,24,26,27) (similar to those shown in figures 7-11 and 12) including a window frame (F) defining a perimeter, a window (20,25,28) located within the frame (F) perimeter, see attached, and a speaker element (5) disposed within the window unit (21,24,26,27). WO 00/35242 discloses the basic claimed invention except for window explicitly including a display image and except for the window being able to transform from transparent to increased opacity. "Switchable Privacy Glass" teaches that it is known in the art to not only form a window or glass pane with a display image and source, as in the top figure on page 2 of the brochure submitted 9/12/02, but that the window or glass pane is also capable of transmission from a transparent state to an increase opacity state through the use of liquid crystals and electric current as the image display source. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the window unit of WO 00/35242 with the transparent/opaque transmittable window/glass pane of "Switchable Privacy Glass" in order to control the vision therethrough both during day and night hours. Providing a window unit with the ability to be opaque allows sunlight to shine through during the day and permits privacy during evening hours without the hassle of curtains,

Art Unit: 3635

blinds, or other assemblies used to cover windows. Regarding claim 2, as seen in figure 7, the unit (21,27) is a single window. In reference to claim 3, as seen in figure 3, the window unit (24) includes a plurality of windows. Regarding claim 4, WO 00/35242, as modified by "Switchable Privacy Glass", teaches that picture images can be displayed on the window/glass surface. In reference to claim 5, as seen in figure 8, the window unit (24) is a bay unit including a main display (M) and two side windows (S), see attached. Regarding claim 6, the speaker unit (5) is disposed in a side window, see figures 8 or 11. In reference to claims 7-9, the speaker (5) is disposed in the main window (M) and shows at least one side window (S). However, it would have been obvious to one having ordinary skill in the art at the time the invention was made that due to the fact that the speakers are disposed in one side window that they would also be disposed in the other side window. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the number and position of speakers suitable for the use intended as an obvious matter of design choice. For instance, if the window was used inside of a doctor's office, perhaps having speakers on all of the windows would allow patients to hear their names being called no matter where they sat in the doctor's office. If there was only one speaker located on a side of the window, a person sitting on the opposite thereof could possibly have a harder time hearing their name being called, as opposed to a person sitting on the same side that that speaker is disposed. However, with speakers on all windows sound is resonant throughout the waiting space and allows for patients to hear more clearly. Regarding claims 10, 12 and 13, as shown in figures 7, 11 and 12, the window frames (F)

includes a first pair of opposed frame members being a bottom (B) and a top (T) member oriented along a horizontal axis; and a second pair being opposing side (SI) members oriented along a vertical axis, see attached, wherein the display image, as can be seen in the attached figure, is disposed in the top frame member. In reference to claim 11, although "Switchable Privacy Glass" teaches to position the display image source (the electric on/off switch) in the top frame, it would have been obvious to one having ordinary skill in the art at the time the invention was made that providing the display image source in the bottom frame is an obvious reciprocal of providing the source in the top frame and is an obvious matter of design choice. For instance, perhaps for larger doors the display source image could be disposed in the bottom frame because it would be much easier to reach; whereas, providing the display image source in the top frame of a window is usually reachable by most.

Claim 14 stands rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/35242 in view of "Switchable Privacy Glass". The structure of WO 00/35242 discloses a method comprising providing a window frame (F), see attached; providing a window within a perimeter of the frame; and disposing a speaker element (5) within the window frame (F), see figure 7. WO 00/35242 discloses the basic claimed invention except for window explicitly disposing a display image source and except for the window being able to transform from transparent to increased opacity. "Switchable Privacy Glass" teaches that it is known in the art to not only form a window or glass pane with a display image and source, as in the top figure on page 2 of the brochure submitted 9/12/02, but that the window or glass pane is also capable of

Art Unit: 3635

transmission from a transparent state to an increase opacity state through the use of liquid crystals and electric current as the image display source. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the window unit of WO 00/35242 with the transparent/opaque transmittable window/glass pane of "Switchable Privacy Glass" in order to control the vision therethrough both during day and night hours. Providing a window unit with the ability to be opaque allows sunlight to shine through during the day and permits privacy during evening hours without the hassle of curtains, blinds, or other assemblies used to cover windows.

Claims 15-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/35242 in view of "Switchable Privacy Glass". WO 00/35242 discloses the use of a patio door (26,27) (similar to those shown in figures 9 and 10) including a window frame (F) defining a perimeter, a window (25) located within the frame (F) perimeter, see attached, and a speaker element (5) disposed within the patio door (26,27).

WO 00/35242 discloses the basic claimed invention except for door explicitly being a "patio" door, except for explicitly including a display image and source and except for the door window being able to transform from transparent to increased opacity.

Although WO 00/35242 does not explicitly detail that his doors are patio doors, the applicant is reminded that the manner in which a device is employed does not differentiate the claimed device from a prior art device satisfying the claim limitations. Hence, a door is a door no matter how or where it is being used. "Switchable Privacy Glass" teaches that it is known in the art to not only form a window or glass pane with a

Art Unit: 3635

display image and source, as in the top figure on page 2 of the brochure submitted 7/12/05, but that the window or glass pane is also capable of transmission from a transparent state to an increase opacity state through the use of liquid crystals and electric current as the image display source. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the window unit of WO 00/35242 with the transparent/opaque transmittable window/glass pane of "Switchable Privacy Glass" in order to control the vision therethrough both during day and night hours. Providing a window unit with the ability to be opaque allows sunlight to shine through during the day and permits privacy during evening hours without the hassle of curtains, blinds, or other assemblies used to cover windows. Regarding claim 16, as seen in figure 9, the door (26) is a single door. In reference to claim 17, as seen in figure 10, the doors (27) can include a plurality of doors. Although the doors (26) only show one window and the doors (27) do not have any windows it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the door with additional windows in within the skill of a worker in the art. In reference to claims 18 and 20, as shown in figures 7 and 12, the window frames (F) includes a first pair of opposed frame members being a bottom (B) and a top (T) member oriented along a horizontal axis; and a second pair being opposing side (SI) members oriented along a vertical axis, see attached, wherein the display image, as can be seen in the attached figure, is disposed in the top frame member. In reference to claim 19, although "Switchable Privacy Glass" teaches to position the display image source (the electric on/off switch) in the top frame, it would have been obvious to one

Art Unit: 3635

having ordinary skill in the art at the time the invention was made that providing the display image source in the bottom frame is an obvious reciprocal of providing the source in the top frame and is an obvious matter of design choice. For instance, perhaps for larger doors the display source image could be disposed in the bottom frame because it would be much easier to reach; whereas, providing the display image source in the top frame of a window is usually reachable by most.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Switchable Privacy Glass" in view of WO 00/35242. "Switchable Privacy Glass" discloses the use of a window unit (WU), see attached, including a window frame (F) defining a perimeter, a window (W) located within the frame (F) perimeter, see attached. "Switchable Privacy Glass" discloses the basic claimed invention except for explicitly including the use of a speaker disposed within the window unit and except for the window being able to transform from transparent to increased opacity. WO 00/35242 teaches that it is known in the art to provide a window unit (21,24,26,27) (similar to those shown in figures 7-11 and 12) including a window frame (F) defining a perimeter with a speaker element (5) disposed within the window unit (21,24,26,27). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the window unit of "Switchable Privacy Glass" with the window speaker of WO 00/35242 in order to not only control the vision therethrough both during day and night hours, but to allow for audio or non-audio between spaces. Providing a window unit with the ability to be opaque allows sunlight to shine through during the day and permits privacy during evening hours without the hassle of curtains, blinds, or other

assemblies used to cover windows. Providing a window with a speaker, allows adjacent areas audible access without physically leaving a space. "Switchable Privacy Glass" teaches that it is known in the art to not only form a window or glass pane with a display image and source, as in the top figure on page 2 of the brochure submitted 9/12/02, but that the window or glass pane is also capable of transmission from a transparent state to an increase opacity state through the use of liquid crystals and electric current as the image display source. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the window unit of WO 00/35242 with the transparent/opaque transmittable window/glass pane of "Switchable Privacy Glass" in order to control the vision therethrough both during day and night hours.

Regarding claim 2, as seen in figure 7, the unit (21,27) is a single window. In reference to claim 3, as seen in figure 3, the window unit (24) includes a plurality of windows.

Regarding claim 4, WO 00/35242, as modified by "Switchable Privacy Glass", teaches that picture images can be displayed on the window/glass surface. In reference to claim 5, as seen in figure 8, the window unit (24) is a bay unit including a main display (M) and two side windows (S), see attached. Regarding claim 6, the speaker unit (5) is disposed in a side window, see figures 8 or 11. In reference to claims 7-9, the speaker (5) is disposed in the main window (M) and shows at least one side window (S).

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made that due to the fact that the speakers are disposed in one side window that they would also be disposed in the other side window. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was

Art Unit: 3635

made to select the number and position of speakers suitable for the use intended as an obvious matter of design choice. For instance, if the window was used inside of a doctor's office, perhaps having speakers on all of the windows would allow patients to hear their names being called no matter where they sat in the doctor's office. If there was only one speaker located on a side of the window, a person sitting on the opposite thereof could possibly have a harder time hearing their name being called, as opposed to a person sitting on the same side that that speaker is disposed. However, with speakers on all windows sound is resonant throughout the waiting space and allows for patients to hear more clearly. Regarding claims 10, 12 and 13, as shown in figures 7, 11 and 12, the window frames (F) includes a first pair of opposed frame members being a bottom (B) and a top (T) member oriented along a horizontal axis; and a second pair being opposing side (S) members oriented along a vertical axis, see attached, wherein the display image, as can be seen in the attached figure, is disposed in the top frame member. In reference to claim 11, although "Switchable Privacy Glass" teaches to position the display image source (the electric on/off switch) in the top frame, it would have been obvious to one having ordinary skill in the art at the time the invention was made that providing the display image source in the bottom frame is an obvious reciprocal of providing the source in the top frame and is an obvious matter of design choice. For instance, perhaps for larger doors the display source image could be disposed in the bottom frame because it would be much easier to reach; whereas, providing the display image source in the top frame of a window is usually reachable by most. In reference to claim 14, "Switchable Privacy Glass", as modified by WO

Art Unit: 3635

00/35242 discloses a method comprising providing a window frame (F), see attached; providing a window within a perimeter of the frame; and disposing a speaker element (5) within the window frame (F), see figure 7. WO 00/35242 discloses the basic claimed invention except for window explicitly disposing a display image source and except for the window being able to transform from transparent to increased opacity. "Switchable Privacy Glass" teaches that it is known in the art to not only form a window or glass pane with a display image and source, as in the top figure on page 2 of the brochure submitted 9/12/02, but that the window or glass pane is also capable of transmission from a transparent state to an increase opacity state through the use of liquid crystals and electric current as the image display source. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the window unit of WO 00/35242 with the transparent/opaque transmittable window/glass pane of "Switchable Privacy Glass" in order to control the vision therethrough both during day and night hours. Providing a window unit with the ability to be opaque allows sunlight to shine through during the day and permits privacy during evening hours without the hassle of curtains, blinds, or other assemblies used to cover windows. Regarding claims 15-20, WO 00/35242 discloses the use of a patio door (26,27) (similar to those shown in figures 9 and 10) including a window frame (F) defining a perimeter, a window (25) located within the frame (F) perimeter, see attached, and a speaker element (5) disposed within the patio door (26,27). WO 00/35242 discloses the basic claimed invention except for door explicitly being a "patio" door, except for explicitly including a display image and source and except for the door window being able to

Art Unit: 3635

transform from transparent to increased opacity. Although WO 00/35242 does not explicitly detail that his doors are patio doors, the applicant is reminded that the manner in which a device is employed does not differentiate the claimed device from a prior art device satisfying the claim limitations. Hence, a door is a door no matter how or where it is being used. "Switchable Privacy Glass" teaches that it is known in the art to not only form a window or glass pane with a display image and source, as in the top figure on page 2 of the brochure submitted 7/12/05, but that the window or glass pane is also capable of transmission from a transparent state to an increase opacity state through the use of liquid crystals and electric current as the image display source. Regarding claim 16, as seen in figure 9, the door (26) is a single door. In reference to claim 17, as seen in figure 10, the doors (27) can include a plurality of doors. Although the doors (26) only show one window and the doors (27) do not have any windows it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the door with additional windows in within the skill of a worker in the art. In reference to claims 18 and 20, as shown in figures 7 and 12, the window frames (F) includes a first pair of opposed frame members being a bottom (B) and a top (T) member oriented along a horizontal axis; and a second pair being opposing side (SI) members oriented along a vertical axis, see attached, wherein the display image, as can be seen in the attached figure, is disposed in the top frame member. In reference to claim 19, although "Switchable Privacy Glass" teaches to position the display image source (the electric on/off switch) in the top frame, it would have been obvious to one having ordinary skill in the art at the time the invention was made that providing the

Art Unit: 3635

display image source in the bottom frame is an obvious reciprocal of providing the source in the top frame and is an obvious matter of design choice. For instance, perhaps for larger doors the display source image could be disposed in the bottom frame because it would be much easier to reach; whereas, providing the display image source in the top frame of a window is usually reachable by most.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot-in-part in view of the new ground(s) of rejection.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

Art Unit: 3635

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on (571) 272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Yvonne M. Horton
Examiner
Art Unit 3635

11/27/06